

Application No.: 10/759,319  
Amendment dated February 13, 2006  
Reply to Office Action of October 17, 2006

Atty. Docket 74-HA-133457/10081-010

### **REMARKS**

Claims 1-6 and 9 stand rejected as being anticipated by Pub. No. US 2004/0030538 (hereinafter referred to as Hawthorne). Claims 7 and 10 stand rejected as being unpatentable over Hawthorne in view of US patent No. 6,314,345 (hereinafter referred to as Coombes). Reconsideration of the rejections is solicited in view of the following remarks.

Claims 1-7, 9 and 10 are pending in the present application.

#### **Anticipation Rejections**

Regarding any rejection under §102, it is noted that the test for anticipation is whether all the elements and operational relationships of the rejected claim are found within a single prior art reference. There must not be any differences between the claimed invention and the reference disclosure as viewed by a person of ordinary skill in the art. Absent from the reference disclosure of any claim element and/or operational interrelationship negates anticipation under §102.

Claim 1 is directed to a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. The communications device comprises a first user display for use by the operator in commanding a desired destination for the locomotive within the track layout by setting the state of the switches along the route to the destination. The communications device further comprises a second user display for use by the operator in controlling movement of the locomotive along the track layout. The combination of the first and second user displays in the communications device allows respective command and control operations to be performed by the same operator with respect to the unmanned locomotive for performing train yard activities.

Hawthorne is directed to a train simulator and playback station, as used to train locomotive engineers. Distinctly, claim 1 is directed to a communications

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device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. Applicant's claimed invention has nothing to do with a simulator. One skilled in the art would clearly distinguish a simulator device used for training versus one used for train yard operations conducted in the physical world. The Hawthorne device and the claimed device comprise totally different uses. On this basis alone, it is respectfully submitted that Hawthorne fails to meet the prima facie standards required in order to sustain an anticipation rejection. Moreover, applicant has reviewed each of the sections of Hawthorne cited in the Office Action (Sections 8-10 and 24-42). However, none of those sections describe a first user display for use by the operator in commanding a desired destination for the locomotive within a track layout by setting the state of the rail track switches along the route to the destination. The Office Action correctly states that simulator device 10 can indeed display a rail track. However, nowhere does Hawthorne describe any functionality in his simulator for setting the state of rail track switches along the route to the destination. That is, the foregoing structural and/or operational relationship is simply not disclosed by Hawthorne. In view of the foregoing remarks, it is respectfully submitted that Hawthorne fails to describe the structural and/or operational relationships set forth in claim 1. Consequently, Hawthorne fails to anticipate claim 1 under the §102 statutory requirements and this rejection should be withdrawn.

Claims 2-4 and 9 depend from claim 1 and thus incorporate the structural and/or operational relationships set forth in claim 1 plus their own recitations. It is respectfully submitted that the Hawthorne reference also fails to anticipate claims 2-4 and 9 under the §102 statutory requirements and these rejections should be withdrawn.

Claim 5 is directed to a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. The device comprises a user display enabling the operator to command a desired destination for the locomotive within the track layout by the

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operator setting the state of the switches along the route to the destination without intervention from other personnel. Firstly, Hawthorne, being directed to a simulator device, fails to describe a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. Secondly, Hawthorne nowhere describes allowing the operator to set the state of the switches along the route. Thus, it is respectfully submitted that Hawthorne fails to describe the structural and/or operational relationships set forth in claim 5. Consequently, Hawthorne fails to anticipate claim 5 under the §102 statutory requirements and this rejection should be withdrawn.

Claim 6 is directed to a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. The device comprises a graphical user interface for use by the operator for commanding a desired destination for the locomotive within the track layout. The graphical user interface is configured to display to the operator a representation of the track layout, wherein the representation allows the operator to monitor operational conditions of the switches that may develop along the route of the locomotive. Firstly, Hawthorne, being directed to a simulator device, fails to describe a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. Secondly, Hawthorne fails to describe a graphical user interface with a graphical representation that allows the operator to monitor operational conditions of the switches that may develop along the route of the locomotive. Being able to merely display a track, as Hawthorne does, is not the same as allowing the operator to monitor operational conditions of the rail track switches, as such conditions develop along the route of the locomotive. Thus, it is respectfully submitted that Hawthorne does not describe the structural and/or operational relationships set forth in claim 6. Consequently, Hawthorne fails to anticipate claim 6 under the §102 statutory requirements and this rejection should be withdrawn.

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### **Obviousness Rejection**

Claim 7 is directed to a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard. The communications device comprises a user display to be used by the operator for commanding a desired destination for the locomotive within the track layout. The user display is responsive to a verification message indicative of whether a switching combination for the locomotive route for reaching the desired destination has been executed.

In connection with claim 7, the Office Action acknowledges that Hawthorne fails to disclose a verification message indicative of whether a switching combination of rail track switches for the locomotive route for reaching the desired destination has been executed. It is noted that this deficiency of Hawthorne is not surprising being that Hawthorne's simulator, as noted above, has nothing to do with setting a combination rail track switches, much less with providing a verification message indicative of whether a switching combination for the locomotive route for reaching the desired destination has been executed. Coombes is then applied to purportedly remedy the foregoing deficiency. Firstly, Coombes does not remedy the fundamental deficiencies of Hawthorne noted above. Secondly, the description of Coombes at column 6, lines 3-53 has virtually nothing to do with providing a verification message indicative of whether a switching combination for the locomotive route for reaching the desired destination has been executed. In fact, Coombes appears to be directed to a locomotive remote control system with a connection unit for either a train line (an electrical signal interface) or to a brake line (a pneumatic airline interface). However, this has nothing to do with providing indications of whether a switching combination for the locomotive route for reaching the desired destination has been executed. In view of the foregoing remarks, it is respectfully submitted that the combination of Hawthorne and Coombes fails to sustain a *prima facie* obviousness rejection. Moreover, it is respectfully submitted that the Hawthorne/Coombes combination does not teach or suggest the structural

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and/or operational relationships set forth in claim 7 or dependent claim 10. Consequently, the Hawthorne/Coombes combination fails to render claims 7 or 10 unpatentable under the §103 statutory requirements and these rejections should be withdrawn.

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed. If the prosecution of this application can be facilitated via telephone conference, the Examining Attorney is welcomed to contact the undersigned at (407) 926-7705.

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Respectfully submitted,



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